

MINUTES OF THE REGULAR MEETING OF THE BUTTE-SILVER BOW COUNCIL OF COMMISSIONERS

FOR AUGUST 2, 2006

The **Regular Meeting** of the Council of Commissioners was called to order Wednesday, **August 2, 2006** in the Council Chambers, Third Floor, Room 312, Courthouse Building, 155 West Granite Street, Butte, Montana by Chief Executive Paul Babb.

ROLL CALL

9 present, 3 absent. Commissioners Dunlap, Walker and Bury were excused.

PRAYER

Commissioner Lee led the commissioners in prayer.

APPROVAL OF THE MINUTES OF THE JULY 19, 2006 REGULAR MEETING

It was moved the Commissioner O'Leary, seconded by Commissioner Sheehy and carried by a unanimous verbal vote to approve the Minutes of the July 19, 2006 Regular Meeting.

ITEMS NOT ADDRESSED ON THE AGENDA – SUSPENSION OF THE RULES

Commissioner O'Leary moved that in accordance with the provisions of subsection 6 of Rule VI of the Rules and Business of the Council of Commissioners of the City and County of Butte-Silver Bow, State of Montana, the Council hereby finds that an emergency conditions exists which requires that the Council rules be suspended to allow Communication No. 06-508 to be added to the agenda of tonight's meeting. The motion was seconded by Commissioner Sheehy and carried with a roll call vote of 9 yeas, 0 nays and 3 absent.

PUBLIC COMMENT ON ANY PUBLIC MATTER NOT ON THE AGENDA

None

CHIEF EXECUTIVE'S REPORT

The Three Bears Project closed on the land on Friday. We had a meeting with the Department of Transportation today to work out the details of their approaches and also their drainage issues so that is moving forward.

He wished to congratulate Commissioner Frasz and the members of Crimestoppers for a job well done last night with the National Night Out.

He thanked everybody that was involved in any way with Evel Knievel Days. That was one of the best events we have had in a long time.

The Alley Rally had the first dumpster down by NCAT. Now we are going to a new location. This program is working well and we are going to different locations around town.

Chief Executive announced that he was going to go in a different order than the items are listed on the agenda. First he will start out with Section IV and that is the public hearing on the Garrison Hill Road and then we will do Section III, Section II and Section I. After we get done with the Public Hearing on the Garrison Hill Road he will call for a brief recess.

SECTION I

PRESENTATION COMMUNICATION NO. 06-482 (CONSIDERED FOURTH ON THE AGENDA)

John P. Walsh, Sheriff, requesting time on the agenda to make a presentation summary of manpower needs assessment and proposal for mill levy to be placed on the November 2006 ballot.

Sheriff John P. Walsh, gave a power point presentation. He made the request that the mill levy presented as a Law Enforcement Mill Levy be placed on the November ballot. This would be for perpetuity. The projected calculations for 20 years total \$31.5 million dollars per year.

It was moved by Commissioner O'Leary, seconded by Commissioner Coleman and carried by a unanimous verbal vote to approve placing this request on the November ballot and that the County Attorney be requested to prepare a resolution for introduction and vote on August 16th.

SECTION II

PRESENTATION COMMUNICATION NO. 06-484 (CONSIDERED THIRD ON THE AGENDA)

Paul D. Babb, Chief Executive, requesting time on 8/2/06 agenda for Dan Dennehy to make a presentation on Community Enrichment Process

Dan Dennehy, Health Department, gave a power point presentation. He said he feels the IC school property will be classified as a Class 1 property. A Developer's packet will be issued. The Developer will have one year to complete all the works assigned in the Developer's Packet. If this is not done the IC school will be assigned for demolition. A Developer's packet is offered twice. They have contacted two local contractors regarding demolition of this building. A very preliminary estimate is \$135,000. The permits and the project design bring the total cost to \$166,452 which does not include importing fill to the site to fill basements and crawl spaces or disconnection of utilities.

It was moved by Commissioner O'Leary, seconded by Commissioner Coleman and carried by a unanimous verbal vote to place Communication No. 06-484 on file.

SECTION III

PUBLIC HEARING (CONSIDERED SECOND ON THE AGENDA)

FOR THE PURPOSE OF HEARING COMMENTS CONCERNING COMMUNITY DECAY VIOLATIONS AT 835 8TH STREET, BUTTE, MONTANA. (Communication No. 06-454 being held in Committee of the Whole) Proof of publication was noted and placed on file.

John Rolich, Sanitarian at the Health Department, gave the staff presentation. He showed a power point of the building. They have cleaned up some of the debris, but a lot needs to be done yet. The Health Department recommends that the garage doors need to be fixed, windows must be repaired, siding must be repaired, fencing must be repaired or removed, debris removed and taken to landfill, weeds must be cut down and removed. The owner, Mr. Krause said he would take care of the weeds and debris by this weekend and the siding by the end of September. The rest of it may take longer.

Chief Executive Babb opened the public hearing at 8:50 PM and called for any proponents. On the third and final call there being none, he called for opponents. Again there was no response so he called the public hearing closed at 8:51 PM.

SECTION IV

PUBLIC HEARING (CONSIDERED FIRST ON THE AGENDA)

FOR THE PURPOSE OF HEARING COMMENTS ON COUNCIL RESOLUTION No. 06-62 WHICH IS A RESOLUTION AUTHORIZING AND APPROVING THE ADOPTION OF THE HIGHLAND ROAD AS A BUTTE-SILVER BOW COUNTY ROAD. **Proof of publication was noted and placed on file.**

Mollie Maffei, Deputy County Attorney, gave the staff report. She said the County Attorney's office has researched this matter and it is their opinion that this is a public road and has been a public road dating back to 1877.

Chief Executive then opened the public hearing at 7:45. He read into the record the following names from letters that were received before the meeting:

1. Bob Fugate, 2500 Farragut Ave.
2. Chere Fugate, 2500 Farragut Ave.
3. Christy A. Hoar, 2817 Ottawa Street
4. Rosemary Anzik, 2108 Johns Ave.
5. Steve Kujawa, 1819 Princeton
6. Tileo Forcella, 33 Forcella Road, Whitehall, MT
7. Bill Holdorf, 2610 State Street
8. Carla Majernik, Adventure Cycling Association
9. Paula and Bruce Ward, Continental Divide Trail

He then called for proponents from the audience. The following came forward:

1. Mike Frisina, 1330 W. Gold Street
2. William Gibson, 84 Lexington
3. Jim Morgan, 2215 Aberdeen
4. Dan Sharon, 375 Roosevelt Drive
5. Jack Atcheson, 2209 Hancock
6. Gene Loder, Dillon MT, representing 80 members of the Beaverhead Outdoor Association.
7. Mary Jones, 293 Storm View Road
8. Steve Egeline, 122 Rampart Drive
9. Jack Jones, 3014 Irene Street
10. Carl Murray, 1101W. Porphyry Street
11. Vanna Boccadoroi, 1958 Princeton St.
12. Tate Madison, 9000 Continental Drive
13. Sam Babich, 626 Evans Avenue
14. Ben Finnicum, 1922 Monroe
15. Vince Fischer, 52 North Lake Drive
16. Tim Kristovich Box 1099, Ennis, MT

17. Tony Schoonen, Ramsay, MT
18. John Creech, 3155 Sanders
19. Frank Cassidy, 2921 Harvard
20. Bob Conklin, 4400 Western
21. Kay Jensen, Divide, MT
22. Kenneth Carver, 2325 North Drive
23. Corey Kinman, 1516 Clayton
24. Lorrie Thomas, Anaconda, representing Anaconda sportsmen
25. Tim Skeel, 1913 Thornton
26. Burl Ivey, Melrose, MT.
27. Ray Thoen, 251 East Badger Lane
28. Jay Conway, 1908 Farragut
29. Bob Carver, 1922 Sherman
30. Rick Estabrook, 58 Lime Kiln
31. Marcus Tinney, Rocker
32. Lyle Metz, 3545 Gaylord
33. Dan Harrington, 1201 N. Excelsior
34. Dan Jones, 293 Storm View Road
35. Russ Connoles, 1709 Gladstone
36. Joe Walsh, 2222 Placer
37. Frank Finnegan 4605 S, Arizona
38. Jim Leary, 381 Basin Creek Road
39. Suzanne Masters, 2930 Elizabeth Warren
40. Angelo Petroni, 412 Terra Verde Drive
41. Wayne McCracken, 2820 Hill Avenue
42. Eric Lane, 2710 Argyle
43. Lynn Foster, 2038 Elm
44. Steve Kambich, 3470 Parkway
45. Hans Lott, 603 W. DeSmet
46. Myra Weathersen 23 1/2 W. Woolman
47. Cy Kohn, 2 Bittersweet
48. Bill Harney, 1701 Hancock
49. Stan Swiatkowski, 357 Passmore Canyon
50. Mike Clark, Butte, MT
51. Al Niemi, 973 N. Main St.
52. Gus Wilkins, 106 Fleecer Drive
53. Hoyt Gibson, 840 Lexington
54. John Erickson, 2501 Edwards
55. Arlene Carver, 1922 Sherman
56. Tom Malloy, 636 W. Park
57. Brent Seymour, 2227 Elm
58. Leo Belanger, 330 Roosevelt Drive
59. Les McGetrick, 340 Roosevelt Drive
60. Bruno Krause, 200 Wildhorse Meadow, Ramsay, MT
61. Lynn Piazzola, 1701 Hancock
62. Charles Gavin, 2010 Howard

63. Dan Calnan, 330 Terra Verde Drive
64. Leo Garrison, 3020 Yale
65. Tony Schoonen, Ramsay for Earl Williams Surveyor
66. Mike O'Connell, 1701 Holmes Ave.
67. Ralph Semsak, 1304 W. Gold
68. Mary Creech, 3451 Sanders

Chief Executive then called for opponents. On the third call there being none, he called the public hearing closed at 8:30 PM. He then explained to the audience that on the 9th of August this would be before the Judiciary Committee and on the 16th it will be adopted. At that time he called for a five minute recess.

The meeting was called back to order with a roll call of 9 present and 3 absent.

SECTION V CONSENT AGENDA

- A.**
1. COMMITTEE OF THE WHOLE MEETING REPORT
 2. FINANCE AND BUDGET COMMITTEE MEETING REPORT
 3. JUDICIARY COMMITTEE MEETING REPORT
 4. PUBLIC WORKS COMMITTEE MEETING REPORT

B. COMMUNICATIONS

Before entertaining a motion for approval of the Consent Agenda, Chief Executive Babb called for any segregations. Commissioner O'Leary called for segregation of Communication No. 06-494. Commissioner Sheehy segregated the Finance and Budget Report, Section II, Communication No. 06-439. Commissioner Kerns segregated Item 10, Communication No. 06-488. Commissioner Sorich segregated the Consent Agenda, the Finance and Budget Committee Meeting Report, Communication No. 06-436 and Communication No. 06-472.

It was moved by Commissioner O’Leary, seconded by Commissioner Sheehy for approval of the Consent Agenda, Section A, Items 1 through 4 and Section B, Items 1 through 27 exclusive of Items 10 and 15 and the communications within the Finance and Budget Committee report.

Items in the Finance and Budget Committee

Communication No. 06-472

Commissioner Sorich made a motion that Communication No. 06-473 be approved and Ms. Crain's budget be amended by \$11,000 per her request.

Ellen Crain, explained she had requested from the Finance and Budget Committee to have a position have a greater salary raise so I can have a more professional person. She met with the Budget office and came up with the figure of \$11,000. This position is

required because we are having such a huge demand for research services that are very complicated.

The motion passed with a unanimous verbal vote.

Communication No. 06-439

Commissioner Sheehy explained he has reduced his request from \$100,000 to \$75,000.0 That is the lowest he could go. His motion would be to concur with his recommendations and insert \$75,000 within the budget. Commissioner Coleman seconded the motion. On the question, Commissioner Lee asked if there was some kind of theme. Commissioner Sheehy said he hoped for mine art work for the time being anyway. Commissioner Coleman asked if the need was for this year or would it be better to have a committee put together to study this before starting for this. There would be a lot of input into it. Commissioner O'Leary said we have been generous to the art people. He would like to hear from Mr. Amerman to see if we have the money. Jeff Amerman said there is no money available in this budget. Any increase will result in tax increases. The motion failed.

Communication No. 06-436

Commissioner Sorich made the motion that Communication No. 06-436 be approved as amended and 2006-2227 budget process move on to the next step. He asked Mr. Amerman to make a presentation. Commissioner Coleman seconded the motion.

Jeff Amerman, Budget Director, said they were still processing year-end invoices and during year-end adjustments. In addition they have been notified by the Department of Revenue that they will not receive certified taxable values until August 7th. They are estimating the mill values this year to be between \$46,000 and \$47,000. He requested funding for .5 FTE in payroll. He asked for this position because Butte-Silver Bow has only one person who processes payroll. If something happened to this person, this is an unacceptable risk to Butte-Silver Bow. Second, the increase in work load over the past 10 to 15 years has been fairly dramatic but there has been no corresponding increase in the support areas. We will have a public hearing on August 16th and a special meeting on August 21 to adopt the budget and pass the necessary resolutions. We recommend you approve the Finance and Budget Committee report and adopt the FY 06-07 Preliminary budget as amended along with the attachment A and to schedule a public hearing on the budget and sewer rates on August 16th and to continue the public hearing till Monday August 21st at which time the hearing is closed, the final budget is adopted and the necessary resolutions are approved. Commissioner Sorich amended the motion to also support the .5 FTE in payroll. Commissioner Coleman seconded the motion and it carried with a unanimous verbal vote.

Communication No. 06-488

Commissioner Kerns asked that his communication be cross referenced with Communication 06-436 and this be placed on file. Commissioner Frasz seconded the motion and it carried with a unanimous verbal vote.

Commissioner O’Leary asked to have the recommendation changed and make a different motion to place the request in Communication No. 06-494 on the November Ballot and to request the County Attorney to prepare a resolution for introduction on August 16th. The motion was seconded by Commissioner Coleman. On the question, Commissioner Kerns asked County Attorney McCarthy when does the ballot language have to be prepared as far as the date so that the ballots can actually be printed. Mr. McCarthy said the last date is the 23rd of August. The resolution will contain a ballot question for both of these issues. The motion carried with a unanimous verbal vote

Emergency – Communication No. 06-508

Jean Pentecost, Operations Manager, Water Utility Division, requesting time on the August 9th agenda to conduct a bid opening for materials that will be used for water mains renewal

Commissioner O’Leary moved that Communication No. 06-508 be referred to Committee of the Whole for a bid opening and held in Committee of the Whole. The motion was seconded by Commissioner Coleman and carried by a unanimous verbal vote.

**SECTION VI ORDINANCES AND RESOLUTIONS –
REFERRED TO JUDICIARY**

1. COUNCIL RESOLUTION NO. 06-61

A RESOLUTION AUTHORIZING AND APPROVING THE SALE OF A PARCEL OF REAL PROPERTY DESCRIBED AS A PORTION OF THE ORO BUTTE-LODE #592, ADJACENT TO LOT 9 OF THE TULLAMORE PLANNED UNIT DEVELOPMENT IN SECTION 13, TOWNSHIP 3 NORTH, RANGE 8 WEST, OWNED BY THE CITY AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA TO THE ADJOINING OWNER PURSUANT TO POLICIES ADOPTED BY THE COUNCIL OF COMMISSIONERS AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

2. COUNCIL RESOLUTION NO. 06-62

A RESOLUTION AUTHORIZING AND APPROVING THE ACCEPTANCE OF THE ROAD COMMONLY KNOWN AS THE HIGHLAND ROAD (F.S. ROAD #84) AS A BUTTE-SILVER BOW COUNTY ROAD AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

3. COUNCIL RESOLUTION NO. 06-64

A RESOLUTION AUTHORIZATION AND APPROVING THE SALE OF A
PARCEL OF REAL PROPERTY LOCATED AT 88 EAST PARK STREET,

LEGALLY DESCRIBED AS LOTS 1 AND 2 OF THE ORIGINAL BUTTE TOWNSITE, WITHIN THE CITY-COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA FOR THE PURPOSE OF COMMUNITY DEVELOPMENT IN ACCORDANCE WITH THE PROCEDURES OF BUTTE-SILVER BOW MUNICIPAL CODE AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

4. COUNCIL RESOLUTION NO. 06-65

A RESOLUTION VACATING, CLOSING DISCONTINUING AND ABANDONING THAT PORTION OF RADIUM STREET BETWEEN BLOCKS 1 AND 2 OF THE BLACK PLACER ADDITION TO THE CITY AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA; PRESCRIBING THE EFFECTIVE DATE OF THIS RESOLUTION AND FINDING THE NECESSARY FACTS HERE

5. COUNCIL RESOLUTION NO. 06-66

A RESOLUTION GRANTING CONDITIONAL APPROVAL OF THE FINAL PLAT OF THE PINE RIDGE MINOR SUBDIVISION OF THE CITY AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA; PROVIDING FOR THE REPEAL OF ALL PARTS OF RESOLUTIONS IN CONFLICT HERewith AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

6. COUNCIL RESOLUTION NO. 06-67

A RESOLUTION GRANTING CONDITIONAL APPROVAL OF THE FINAL PLAT OF THE GODTLAND MINOR SUBDIVISION OF THE CITY AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA; PROVIDING FOR THE REPEAL OF ALL PARTS OF RESOLUTIONS IN CONFLICT HERewith AND PROVIDING FOR AN EFFECTIVE DATE HEREIN

7. COUNCIL RESOLUTION NO. 06-68

A RESOLUTION GRANTING CONDITIONAL APPROVAL OF THE FINAL PLAT OF THE LAKESHORE DEVELOPMENT #8 – PHASE I OF THE CITY AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA; PROVIDING FOR THE REPEAL OF ALL PARTS OF RESOLUTIONS IN CONFLICT HERewith AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

SECTION VII

ORDINANCES AND RESOLUTIONS – FINAL READING

1. COUNCIL BILL NO. 06-6 ORDINANCE NO. 06-6

AN ORDINANCE CREATING AN APPOINTED BOARD TO BE ENTITLED “LAW ENFORCEMENT ADVISORY BOARD” AND TO BE NUMBERED CHAPTER 2.26 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC); SETTING FORTH THE COMPOSITION, DUTIES AND REPORTING REQUIREMENTS OF THE BOARD; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. **It was moved by Commissioner O’Leary, seconded by Commissioner Coleman and carried by a roll call vote of 9 yeas, 0 nays and 3 absent to place Council Bill No. 06-6, Ordinance No. 06-6 on final reading and passed having been deemed fully read at length.**

2. COUNCIL RESOLUTION NO. 06-59

A RESOLUTION AUTHORIZING AND APPROVING THE SALE OF A PARCEL OF REAL PROPERTY LOCATED ON EAST PARK STREET, LEGALLY DESCRIBED AS LOTS 38-42 AND THE WEST HALF OF LOT 43 OF THE LIZZIE LODGE, SECTION 18, TOWNSHIP 3 NORTH, RANGE 7 WEST, WITHIN THE CITY-COUNTY BUTTE-SILVER BOW, STATE OF MONTANA FOR THE PURPOSE OF COMMUNITY DEVELOPMENT IN ACCORDANCE WITH THE PROCEDURES OF BUTTE-SILVER BOW MUNICIPAL CODE AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. **It was moved by Commissioner O’Leary, seconded by Commissioner Coleman and carried by a roll call vote of 9 yeas, 0 nays, and 3 absent to place Council Resolution No. 06-59 on final reading and passed having been deemed fully read at length.**

3. COUNCIL RESOLUTION NO. 06-60

A RESOLUTION AUTHORIZING AND APPROVING THE SALE OF A PARCEL OF REAL PROPERTY LOCATED ON EAST PARK STREET, LEGALLY DESCRIBED AS LOTS 47-49 AND THE WEST 3.5’ OF LOT 50 OF THE LIZZIE LODGE, SECTION 18, TOWNSHIP 3 NORTH, RANGE 7 WEST, WITHIN THE CITY-COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA FOR THE PURPOSE OF COMMUNITY DEVELOPMENT IN ACCORDANCE WITH THE PROCEDURES OF BUTTE-SILVER BOW MUNICIPAL CODE AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. **It was moved by Commissioner O’Leary, seconded by Commissioner Coleman and carried by a roll call vote of 9 yeas, 0 nays and 3 absent to place Council Resolution No. 06-60 on final reading and passed having been deemed fully read at length.**

SECTION VIII

ORDINANCES AND RESOLUTIONS – SUSPENSION OF THE RULES

It was moved by Commissioner O’Leary, seconded by Commissioner Coleman and carried with a roll call vote of 9 yeas, 0 nays and 3 absent for the suspension of the rules for the purpose of passing Council Resolution No. 06-63 by waiving subsection 7 of Rule XXXVI of the Rules and Order of Business of the Council of Commissioners, thereby having it considered for advanced passage without reference to the Judiciary Committee.

1. COUNCIL RESOLUTION NO. 06-63

A RESOLUTION DECLARING THAT EMERGENCY FIRE CONDITIONS EXIST WITHIN THE CITY AND COUNTY OF BUTTE-SILVER BOW, MONTANA CITY-COUNTY; ESTABLISHING SPECIAL FIRE RESTRICTIONS – STAGE I AS ADOPTED BY THE WEST CENTRAL MONTANA AREA FIRE RESTRICTION AND CLOSURE PLAN (2006) THROUGHOUT THE CITY-COUNTY; AUTHORIZING THE DIRECTOR OF FIRE SERVICES TO UPGRADE THE SPECIAL FIRE RESTRICTIONS TO STAGE II AND OR LOCAL/SMALL SCALE CLOSURES WHEN SUCH RESTRICTIONS ARE ADOPTED BY THE WEST CENTRAL MONTANA AREA RESTRICTIONS AND CLOSURE GROUP AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. It was moved by Commissioner O’Leary, seconded by Commissioner Coleman and carried by a roll call vote of 9 yeas, 0 nays and 3 absent to place Council Resolution No. 06-63 on final reading and passed having been deemed fully read at length.

ADJOURN

There being no further business to come before the council, it was moved by Commissioner O’Leary, seconded by Commissioner Coleman and carried by a unanimous verbal vote to Rise to the Call of the Chair.

CHIEF EXECUTIVE

ATTEST:

CLERK AND RECORDER

